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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,255	01/08/2004	John Layous	GARLIC2003	6747

7590 06/16/2005

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EXAMINER

PRATT, HELEN F

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/753,255

Applicant(s)

LAYOUTS ET AL.

Examiner

Helen F. Pratt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

W a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 11-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 is indefinite in that the claim is incomplete. No limitations are seen the claim.

No basis is seen for the the term "bits" in claim 11 as in claims 12-14.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Meiji (JP 59216565).

Meiji discloses a garlic piece as in claim 11 (abstract). It is not known what size of garlic piece is required, therefore, the garlic of Meiji is seen to read on the claim.

Claim Rejections - 35 USC § 103

Claims 1, 2, 3, 5, 7, 8, 9, 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meiji (JP 59216565A) in view of Rombauer et al.

Meiji discloses a process of blanching raw garlic without the peel in hot water, steam treatment, frying in oil to pre-treat the garlic, and then frying in hot oil to

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deodorize the garlic (abstract). Claims 1, 2, 3, 5, 7, 8, 9, 12-17 differ from the reference in the step of cutting the garlic into bits. However, the size of the bits it is not known. It is seen that it would have been within the skill of the ordinary worker to cut the garlic into whatever size was required as chopping and cutting of vegetables is well known. Rombauer et al. disclose that it is known to blanch garlic, cook, and mince garlic (page 584, 2nd col. under garlic). Therefore, it would have been obvious to cut garlic into small pieces as disclosed by Rombauer et al. in the process of Meiji if one wants small pieces or bits of garlic.

The limitations of claim 11 are seen to have been obvious and are shown by the above combination of references.

Claims 4, 6, 10-15, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references as applied to the above claims, and further in view of Sakamoto (3,082,310).

Claims 4, 6, 10, 18 further require that strength of the garlic is reduced by baking the garlic bits. Sakamoto discloses that it is known in the prior art to bake garlic, and that baking results in a loss of volatile elements (col. 1, lines 15-25, lines 30-35). Certainly, much of the flavor of garlic is in the volatile elements. Therefore, it would have been obvious to bake the garlic bits in the process of the combined bits to reduce the flavor caused by volatile elements.

The composition has been shown as in claims 11-15 because the garlic bits have reduced strength of flavor and bitterness due to loss of volatile elements as disclosed by the combined references above. No weight is given to the process limitations of frying

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and baking and slicing and dicing as in claims 12-15. Therefore, it would have been obvious to make a product with reduced garlic flavor using other methods as shown above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen F. Pratt whose telephone number is 571-272-1404. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Milton Cano, can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hp 6-10-05


HELEN PRATT
PRIMARY EXAMINER